

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

AUSTIN SUMMITT,)	
)	
Plaintiff,)	
)	
v.)	No.: 3:20-CV-473-CLC-HBG
)	
CORPORAL LONGMIRE and)	
CORPORAL DY CZARICK,)	
)	
Defendants.)	

MEMORANDUM

Plaintiff Austin Summitt, a prisoner proceeding pro se and *in forma pauperis* in this civil rights action for violation of 42 U.S.C. § 1983, has filed a motion to dismiss his Complaint without prejudice [Doc. 51]. Defendants have not responded to the motion, and the deadline to do so has passed. *See* E.D. Tenn. L.R. 7.1.

Defendants have each filed answers in this cause [Docs. 26, 43], and Defendant Dyczarick has filed a motion for summary judgment [Doc. 27]. Therefore, this action may be dismissed only upon order of the Court. *See* Fed. R. Civ. P. 41(a)(2) (providing that where answer or motion for summary judgment has been filed, action may be dismissed at plaintiff's request only upon court order and on proper terms). Having duly considered the matter, the Court finds Plaintiff's motion well taken. Accordingly, Plaintiff's motion [Doc. 51] will be **GRANTED**, and this action will be **DISMISSED WITHOUT PREJUDICE**. In addition, Defendant Dyczarick's motion for summary judgment [Doc. 27] will be **DENIED AS MOOT**.

Further, the Court **CERTIFIES** that any appeal from this decision would not be taken in good faith, and therefore, Plaintiff will be **DENIED** leave to appeal *in forma pauperis* on any subsequent appeal. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24.

AN APPROPRIATE ORDER WILL ENTER.

/s/
CURTIS L. COLLIER
UNITED STATES DISTRICT JUDGE